IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Crl.MC.No. 4506 of 2002()

CC.66/2002 of CHIEF JUDICIAL MAGISTRATE COURT, PATHANAMTHITTA .
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PETITIONER: ACCUSED:

M.ISMAIL, AGED 57 YEARS,
S/O. MUTHARKANI RAWTHER, THYKKAVIL HOUSE,
PETTAH, PATHANAMTHITTA.

BY ADV. SRI.PAULY MATHEW MURICKEN

RESPONDENTS:
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1. **STATE OF KERALA,**
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIH COURT OF KERALA, ERNAKULAM.

2. **SUB INSPECTOR OF POLICE,**
   PATHANAMTHITTA POLICE STATION.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.M.C 4506/2002

ORDER ON CRL.MP.3048/2002 IN CRL.MC. 4506/2002

DISMISSED

07.09.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

tss

K.R.UDAYABHANU, J

Crl.M.C.No.4506 of 2002

Dated this the 7th day of September, 2007

O R D E R

The petitioner who is the accused in C.C.No.66/2002 in the file of Chief Judicial Magistrate Court, Pathanamthitta has sought for setting aside the proceedings initiated under Section 420 IPC.

2. The prosecution case is that the accused representing as the veterinary doctor went to the house of the defacto complainant to attend the delivery of his cow and on reaching the house it was found that the delivery was over and that the petitioner cut the umbilical cord and separated the calf and subsequently the calf died due to bleeding. The incident took place at 7.10.2001 at about 10 p.m. It is the contention of the petitioner that he is qualified to give first aid which included cutting the umbilical code and that at any rate the offence under Section 420 IPC will not lie as it was the defacto complainant who came to him and sought for his help.

3. The counsel has sought for raising the above contentions before the court below and apply for discharge. In

the circumstances, the Crl.M.C. is disposed of with liberty to raise the above contentions before the court below and apply for discharge. The court below shall consider the same.

The Crl.M.C. is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl